

**COURT OF APPEALS
DECISION
DATED AND RELEASED**

JULY 18, 1995

NOTICE

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See § 808.10 and RULE 809.62, STATS.

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

Nos. 95-0861-FT
95-0862-FT

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT III**

**IN THE INTEREST OF
GREGORY H., A JUVENILE:**

STATE OF WISCONSIN,

Plaintiff-Respondent,

v.

GREGORY H.,

Respondent-Appellant.

APPEALS from an order¹ of the circuit court for Langlade County:
JAMES P. JANSEN, Judge. *Affirmed.*

CANE, P.J. Gregory H., age seventeen, appeals the trial court's order placing him back in Lincoln Hills School.² He contends the State failed to

¹ These are expedited appeals under Rule 809.17, STATS. These appeals were consolidated on May 4, 1995.

² Although Gregory's notice of appeal also refers to court No. 90-JV-82E, which contains the court's dispositional order extending his custody to Lincoln Hills School to September 13, 1995, his appeal challenges only the court's order of September 29, 1994, placing him back in Lincoln Hills.

give adequate notice for the hearing on his change of placement and that there was no rational basis to support the court's finding that he should be transferred back to Lincoln Hills. This court rejects Gregory's arguments, and the change of placement order is affirmed.

The juvenile court had originally placed Gregory at Lincoln Hills on August 5, 1992, where he had an extensive stay because of behavioral problems. In September 1993, he was placed in a group home, but had to be returned to Lincoln Hills the following month because of an incident where he had stolen a car and burglarized a home. He was again released to another group home in August 1994, but Gregory continued to abscond from the group home and other placements. Finally, on September 20, 1994, the State filed a petition seeking Gregory's placement back in Lincoln Hills, which the court granted after a hearing on September 29, 1994. That order is the subject of this appeal. Gregory had also filed a petition seeking placement at home with his mother, which the court denied.

Section 48.357, STATS., governs juvenile change of placement requests and hearings and provides in part:

[T]he notice shall contain the name and address of the new placement, the reasons for the change in placement, a statement describing why the new placement is preferable to the present placement and a statement of how the new placement satisfies objectives of the treatment plan ordered by the court.

First, Gregory contends that the notice fails to contain information why the Lincoln Hills placement is preferable to the present placement and how this placement satisfies the objectives of the treatment plan ordered by the court. In response, the State contends the notice contains ample information why placement at Lincoln Hills was preferable and how it would achieve the objectives of the trial court's treatment plan. This court agrees with the State.

Eric Roller, a juvenile court supervisor, filed the petition requesting Gregory's return to Lincoln Hills. In Roller's petition for change of

placement and court addendum, he provides an extensive history of Gregory's placements, problems at these placements and why he recommends Gregory's return to Lincoln Hills. Essentially, Roller outlined how Gregory had to be returned to Lincoln previously because he absconded from a group home and engaged in criminal conduct. In August 1994, Gregory was placed in the Washington House Group Home from where he absconded early the next month and was later apprehended at his mother's home. While at Washington House, Gregory was involved in gang situations, skipped school and showed disrespect to the other residents and staff. His mother had concealed Gregory's hiding at her home for about eight days and admitted that during this time Gregory apparently had changed little as he refused to follow her orders.

Roller indicated that placement at Washington House was no longer appropriate because of his running away from that facility and lack of progress while at the facility. Additionally, Roller points out that even after Gregory was apprehended at his mother's home, he ran away twice from a shelter home where he was temporarily placed. He indicated that placement at his mother's home was also inappropriate inasmuch as she had failed to cooperate with the authorities while she concealed her son and that Gregory would not even cooperate with his mother. He also indicated shelter care was inappropriate because of Gregory's two abscondences. Roller concluded that placement at Lincoln Hills was preferable as it provided the needed security.

Roller stated how this change of placement back to Lincoln Hills would also satisfy the court's treatment plan as the secure facility would not only prevent Gregory from continuing to run away, but would also force him to follow rules and work on his behavior modification program. This court is satisfied that Roller's information amply notified Gregory why the Lincoln Hills placement was preferable and how it would satisfy the objectives of the court's treatment plan.

Next, Gregory contends there was no rational basis for the trial court's placing him back at Lincoln Hills. This court disagrees. Here, the trial court reviewed Gregory's juvenile file and Roller's addendum report and conceded that in a sense it was warehousing Gregory. It stated however, "But you have such a dangerous attitude problem that you are a danger to the community, because if you want something, you just take it. If you want your mother's car, you just take it." Knowing Gregory's propensity for criminal

misconduct, his prior placement and unsuccessful releases to group homes and shelter facilities and his apparent uncooperative attitude at the placement hearing, the trial court had no reasonable alternative but to return Gregory to Lincoln Hills. Consequently, this court is satisfied that under these circumstances, the trial court reasonably exercised its discretion by placing Gregory back in Lincoln Hills.

By the Court. – Order affirmed.

This opinion will not be published. RULE 809.23(1)(b)4, STATS.